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*Counsel to Black Diamond Commercial  
Finance, LLC*

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
RICHMOND DIVISION

In re:

PATRIOT COAL CORPORATION, *et al.*,  
  
Debtors.

BLACK DIAMOND COMMERCIAL FINANCE, LLC,  
  
Plaintiff,  
  
v.

Chapter 11

Case No. 15-32450 (KLP)

Jointly Administered

Adv. Proc. No. 16-03105 (KLP)

VIRGINIA CONSERVATION LEGACY FUND, INC. and  
ERP COMPLIANT FUELS, LLC,

Defendants.

VIRGINIA CONSERVATION LEGACY FUND, INC. and  
ERP COMPLIANT FUELS, LLC,

Counterclaim-Plaintiffs,

v.

BLACK DIAMOND COMMERCIAL FINANCE, LLC,

Counterclaim-Defendant.

**PLAINTIFF'S MOTION TO (I) COMPEL DEFENDANTS' PRODUCTION OF  
DOCUMENTS AND (II) ALLOW THIRD-PARTY TENEO RESTRUCTURING TO  
PRODUCE DOCUMENTS IN RESPONSE TO PLAINTIFF'S *SUBPOENA DUCES TECUM***

Plaintiff Black Diamond Commercial Finance, LLC, by its attorneys McGuireWoods LLP and Covington & Burling LLP, respectfully moves this Court, pursuant to Federal Rules of Civil Procedure 26 and 37, made applicable by Federal Rules of Bankruptcy Procedure 7026 and 7037, and this Court's Local Rule 7026-1(C), to (i) Compel Defendants Virginia Conservation Legacy Fund, Inc. and ERP Complaint Fuels, LLC's Production of Documents and to (ii) Allow Third-Party Teneo Restructuring to Produce Documents in Response to Plaintiff's *Subpoena Duces Tecum*.

For the reasons described in Plaintiff's contemporaneously filed *Memorandum of Law in Support of Motion to (I) Compel Defendants' Production of Documents and (II) Allow Third-Party Teneo Restructuring to Produce Documents in Response to Plaintiff's Subpoena Duces Tecum*, the Court should enter an order substantially in the form of the attached Exhibit A.

Dated: February 17, 2017  
Richmond, Virginia

Respectfully submitted,

/s/ John H. Maddock III

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**CERTIFICATE OF CONFERENCE**

Pursuant to Federal Rule of Civil Procedure 37(a)(1) and this Court's Local Rule 7026-1(H), I hereby certify that Plaintiff Black Diamond Commercial Finance, LLC conferred with Defendants Virginia Conservation Legacy Fund, Inc. and ERP Compliant Fuels, LLC in an attempt to resolve the disputes that give rise to the foregoing motion without Court intervention.

/s/ John H. Maddock III  
John H. Maddock III

**CERTIFICATE OF SERVICE**

I hereby certify that on February 17, 2017, I filed the foregoing *MOTION TO (I) COMPEL DEFENDANTS' PRODUCTION OF DOCUMENTS AND (II) ALLOW THIRD-PARTY TENEO RESTRUCTURING TO PRODUCE DOCUMENTS IN RESPONSE TO PLAINTIFF'S SUBPOENA DUCES TECUM* to be filed with and uploaded to this Court's CM/ECF system, which will send notification of such filing to all CM/ECF participants.

/s/ John H. Maddock III  
John H. Maddock III

**EXHIBIT A**

**PROPOSED ORDER**

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
RICHMOND DIVISION

In re:

PATRIOT COAL CORPORATION, *et al.*,  
  
Debtors.

BLACK DIAMOND COMMERCIAL FINANCE, LLC,  
  
Plaintiff,

v.

VIRGINIA CONSERVATION LEGACY FUND, INC. and  
ERP COMPLIANT FUELS, LLC,  
  
Defendants.

VIRGINIA CONSERVATION LEGACY FUND, INC. and  
ERP COMPLIANT FUELS, LLC,

Counterclaim-Plaintiffs,

v.

BLACK DIAMOND COMMERCIAL FINANCE, LLC,  
  
Counterclaim-Defendant.

Chapter 11

Case No. 15-32450 (KLP)

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ORDER GRANTING PLAINTIFF'S MOTION TO (I) COMPEL DEFENDANTS'  
PRODUCTION OF DOCUMENTS AND (II) ALLOW THIRD-PARTY TENEO  
RESTRUCTURING TO PRODUCE DOCUMENTS IN RESPONSE TO PLAINTIFF'S  
*SUBPOENA DUCES TECUM*

Upon consideration of the *Motion to (I) Compel Defendants' Production of Documents and (II) Allow Third-Party Teneo Restructuring to Produce Documents in Response to Plaintiff's Subpoena Duces Tecum* filed by Plaintiff Black Diamond Commercial Finance, LLC on February

17, 2017 (the “Motion”); and it appearing that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and any objections to the relief requested in the Motion have been withdrawn or overruled on the merits; and after due deliberation and sufficient cause appearing therefor, it is HEREBY ORDERED THAT:

1. The Motion is granted.
2. Defendants Virginia Conservation Legacy Fund, Inc. and ERP Compliant Fuels, LLC are ordered to produce all documents and email communications shared with or made in the presence of Teneo Restructuring or Iron Management, LLC, by March 24, 2017.
3. Defendants Virginia Conservation Legacy Fund, Inc. and ERP Compliant Fuels, LLC are ordered to allow third-party Teneo Restructuring to produce, in response to Plaintiff Black Diamond Commercial Finance, LLC’s *subpoena duces tecum* [ECF Nos. 35, 41], all documents and email communications Teneo Restructuring is withholding at the instruction of Defendants Virginia Conservation Legacy Fund, Inc. and ERP Compliant Fuels, LLC.
4. The Court will retain jurisdiction with respect to any dispute concerning the relief granted hereunder.

Dated: \_\_\_\_\_  
Richmond, Virginia

\_\_\_\_\_  
THE HONORABLE KEITH L. PHILLIPS  
UNITED STATES BANKRUPTCY JUDGE

Dated: February 17, 2017  
Richmond, Virginia

WE ASK FOR THIS:

/s/ John H. Maddock III  
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*Counsel to Black Diamond Commercial  
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**CERTIFICATE OF ENDORSEMENT**

Pursuant to this Court's Local Rule 9022-1(C), I hereby certify that the foregoing Proposed Order has been served on or endorsed by all necessary parties.

John H. Maddock III  
John H. Maddock III